

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

JAMES HAYDEN,

Plaintiff,

v.

2K GAMES, INC. and TAKE-TWO  
INTERACTIVE SOFTWARE, INC.,

Defendants.

CASE NO. 1:17-cv-02635-CAB

**DEFENDANTS 2K GAMES, INC. AND TAKE-TWO INTERACTIVE SOFTWARE,  
INC.'S REPLY IN SUPPORT OF THEIR MOTION TO CONTINUE TRIAL**

Pursuant to Federal Rule of Civil Procedure 6 and Paragraph 7 of this Court’s Standard Civil Trial Order, Defendants Take-Two Interactive Software, Inc. and 2K Games, Inc. (collectively, “Take-Two”) respectfully submit this reply in support of their Motion to Continue the June 20, 2022 trial date and all corresponding deadlines (the “Motion”).

In his response to Take-Two’s Motion, Plaintiff James Hayden (“Plaintiff”) indicates that he does not oppose a continuance of the trial date and corresponding pre-trial deadlines. Dkt. 143 at 2.<sup>1</sup> As detailed in Take-Two’s Motion, and as Plaintiff has subsequently recognized, there are many motions pending in this Litigation, which may resolve or narrow issues for trial. Continuing the trial date will allow the parties to save the costs and effort of preparing for a trial that either will not occur, or will be tried on a narrower set of issues than currently exist in the case. Accordingly, Defendants respectfully request that the trial and corresponding deadlines, including the deadlines for trial briefs and *motions in limine* due this month, be continued.

If Take-Two’s Motion is granted, Take-Two will of course defer to the Court’s preference on whether or how to reschedule the trial. In his response, Plaintiff suggests setting a new trial date for 30 to 60 days later. Take-Two’s counsel, however, has trials set for August and September. Thus, Take-Two respectfully suggests that the Court continue the trial date without re-setting it and, if Take-Two’s case-dispositive motion for summary judgment is not granted, schedule a status conference during which the parties could discuss scheduling trial on any issues that remain in the case.

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<sup>1</sup> Plaintiff also claimed to be “surprised” by Take-Two’s Motion. This makes no sense. Take-Two contacted Plaintiff explaining that it planned to move to continue the trial date in light of the pending motions and asked for Plaintiff’s position. *See* Dkt. 143-01. Plaintiff responded that he did not agree and that he planned to prepare for the June 20 trial date. Until Plaintiff filed his responsive brief, he never indicated that he had changed his position. Thus, Take-Two filed its brief correctly indicating Plaintiff’s position as it had been communicated to Take-Two. *See* Dkt. 143. In any case, given that both parties now agree that a continuance is in the best interest of this litigation, Plaintiff’s focus on his past lack of clarity is beside the point.

Dated: New York, NY  
April 11, 2022

/s/ Dale M. Cendali

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